XII-189 / (Jail)
C. J. P. R. 11/94/2,000

CF0000061861

GA 1151/97

APPEAL OF PRISONER

Division Bench (Crim.

No. 5372/55 Name धीर सिंह

Father's name सुकुल सिंह

Residence ग्राम नेशनल हाई, आना-कटघला, थाना मुकाम- उमरखार रि सदी, आना-बालकोनगर, तह कोरबा, जिला-बिलासपुर (म.प्र.)

Sentenced to आजीवन कारावास On 27/2/97

Under section 302 भा. द. वि. by अपर सत्र न्यायाधीश कोरबा, जिला- बिलासपुर (म.प्र.)

It is explained to the prisoner that if he states or wishes to be represented by legal practitioner the Appellate Court will not proceed with the base for seven days unless the legal practitioner appears. If the legal practitioner does not appear within seven days he may not heard at all. If the prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

High Court of Madhya Pradesh
JABALPUR
Reg. No. 4133
9 JUN 1997
Receipt Clerk
High Court, Jabalpur

1 Date of Application for copy of Judgement

2 Date on which copy received 9 JUN 1997

3 Date on which Appeal sent 29/5/97

4 Whether the prisoner wishes to be represented or not – Yes / No

No. 5372/55 Name धीर सिंह S/o सुकुल सिंह

Confined in केन्द्रीय Jail रायपुर (म.प्र.)

No. 159 विधि/97 Dated 29/5/ 1997

Forwarded to the ~~CHIEF JUDICIAL MAGISTRATE~~ माननीय उच्च न्यायालय मध्य प्रदेश जबलपुर

together which a copy of judgement or order passed in the case for favour of transmission to the proper Appellate Court.

संलग्न: सत्र प्रकरण क्रमांक 116/95 की प्रमाणित निर्णय प्रतिलिपि।

Superintendent
Central Jail, Raipur. (M.P.)
Jail

Date of order 27/2/97 to 29/5

Date of receipt in office Feb-1

Date of receipt record to accompany the March 31

Memo of Appeal to the Appellate court April - 30 May - 29

No Dated 199

Forwarded to the

31 days TB

Date of receipt in Appellate Court

(P. T. O.)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(16)

आदेश पत्रक

मामला क्रमांक G.A.1151/97 सन् ~~200~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Division Bench: -

Hon'ble Mr. L.C. Bhadoo and
Hon'ble Mr. Dhirendra Mishra, JJ.

1-2-2006

Miss Sangeeta Mishra, counsel for the appellant.

Mr. U.N.S. Deo, Additional Public Prosecutor with Mr. M.P.S. Bhatia, Panel Lawyer for the State/respondent.

Oral judgment dictated on Dais.

Per L.C. Bhadoo, J: -

By this appeal, the appellant has questioned the legality of the judgment of conviction and order of sentence dated 27-2-1997 passed by the Additional Sessions Judge, Korba, in Sessions Trial No.116/95, whereby learned Additional Sessions Judge after holding the accused/appellant guilty for commission of offence under Section 302 of the I.P.C. for committing the murder of Shambhu Charan Mahto, sentenced him to undergo imprisonment for life.

Case of the prosecution, in brief, is that Rajesh Kumar Mahto (PW-11) lodged the report Ex.P-13 in Police Station: Balco Nagar on 1-1-1995 at 3 p.m. to the effect that on that day he went to forest for bringing wood, his father was grazing ox, when he returned from the forest and reached the house, he saw that in the field of Samaru, Dheer Singh was assaulting his father after throwing him down. On seeing this, he raised scream and the accused fled away. He went near his father and saw that he was already dead and blood was oozing out of mouth, head, nose & ear. Receiving this report, the Investigating Officer left for the scene of occurrence and after

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आदेश पत्रक

मामला क्रमांक G.A.1151/97 सन् ~~200~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

giving notice Exs.P-16 & P-17 to the Panchas, he prepared the Panchnama Ex.P-18 of the body of Shambhu Charan Mahto. The body of Shambhu Charan Mahto was sent for post-mortem examination to the hundred-bedded hospital at Korba under Ex.P-19 where Dr. P.S. Sisodia (PW-1) conducted post-mortem on the body of Shambhu Charan Mahto and prepared the post-mortem report Ex.P-1C. The Investigating Officer took into possession one pair of slippers under Ex.P-20. He also took into possession plain soil and blood stained soil from the place of occurrence under Ex.P-21. On the memorandum Ex.P-7 given by the accused, the weapon of offence arrow was taken into possession under Ex.P-8.

After completion of investigation, charge sheet was filed in the Court of Judicial Magistrate, Korba, who in turn committed the case to the Sessions Judge, Bilaspur, from where learned Additional Sessions Judge, Korba, received the case on transfer for trial.

The prosecution in order to establish charge against the accused examined 11 witnesses. Statement of the accused was recorded under Section 313 of the Cr.P.C. in which he denied the prosecution evidence and stated that he is innocent.

Learned Additional Sessions Judge after hearing the arguments of Additional Public Prosecutor and counsel for the accused convicted and sentenced the accused as mentioned in para 1 of this judgment.

We have heard Miss Sangeeta Mishra, learned counsel for the accused/appellant and Mr. U.N.S. Deo, learned Additional Public Prosecutor

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आदेश पत्रक

मामला क्रमांक G.A. 1151/97 सन् ~~200~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

with Mr. M.P.S. Bhatia, learned Panel Lawyer on behalf of the State/ respondent.

The homicidal death of Shambhu Charan Mahto is not in dispute. As far as the involvement of the accused/appellant in committing the murder of Shambhu Charan Mahato is concerned, the conviction rests on the evidence of Rajesh Kumar Mahto (PW-11) who is the son of the deceased and who lodged the report immediately after seeing the incident vide Ex.P-13, in which he mentioned that accused Dheer Singh has committed the murder of his father.

Rajesh (PW-11) has stated in his evidence that on the fateful day he went to fetch wood from forest and his father was grazing ox, when he returned from forest after collecting wood, he saw that accused Dheer Singh was assaulting his father while sitting on his chest. On seeing Dheer Singh assaulting his father, he raised scream and the accused fled away from the scene of occurrence. Thereafter, Rajesh reached near the body of his father and saw that his father was already dead, the body was lying in the pool of blood, blood was oozing out of the injuries and his father was attacked with arrow. He lodged the report Ex.P-13 at Police Station: Balco Nagar. In cross-examination of this witness, defence has not been able to elicit any circumstance, which makes the evidence of this witness unreliable or untrustworthy.

Learned counsel for the appellant argued that it has come in the evidence of Rajesh Kumar Mahto (PW-11) that there was no dispute between the deceased and the accused, therefore, the accused has been falsely implicated in the crime.

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आदेश पत्रक

मामला क्रमांक G.A.1157/97 सन् ~~200~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 4 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

As far as the dispute is concerned, it is just like a double edged weapon. Dispute can be used for committing the crime as well as for false implication. But, if we look into the evidence of Rajesh (PW-11), who witnessed the crime in question, the crime was committed during the day light and Rajesh immediately lodged the report which testifies the correctness of the statement of Rajesh. Moreover, the evidence of this witness stands corroborated to a certain extent with the evidence of Balamsai (PW-4) who has stated in his evidence that on the fateful day when he was grazing cow in the garden, he heard the noise of quarrel between Dheer Singh & Shambhu Charan Mahto. Rajesh came to him and informed about the fact that Dheer Singh has murdered his father on which he went near the body of Shambhu Charan Mahto and saw that Shambhu Charan was lying dead and blood was oozing out of mouth & nose.

As per the medical evidence of Dr. P.S. Sisodia (PW-1) who conducted post-mortem, as many as eight injuries were found on the body of Shambhu Charan Mahto, his skull bone was fractured, there was stab wound on jaw, there was compound fracture of jaw and cut wound on the backside of the neck. Even the arrow in question was recovered at the instance of the accused. Dr. P.S. Sisodia (PW-1) has stated in his evidence that post-mortem was conducted by him and report was prepared by him. As per the post-mortem report, cause of death was syncope due to throttling. It has come in the evidence that when Rajesh (PW-11) came, the accused was assaulting Shambhu Charan Mahto after ~~throwing~~ felling him down and after sitting on the chest of Shambhu Charan.

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आदेश पत्रक

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विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -5-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Therefore, in view of the above evidence, it is established that the author of the crime in question was the accused/appellant. We do not find any illegality or infirmity in the judgment in question.

In the result, this appeal is devoid of any merit, same is liable to be dismissed and it is accordingly, dismissed.

Sd/-
L.C.BHADOO
Judge

Sd/-
DHIRENDRA MISHRA
Judge

Soma